IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 14038 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

RIJU DIPAKKUMAR PATEL - Petitioner(s)
Versus
STATE OF GUAJRAT THR; JT. SECRETARY & 1 - Respondent(s)

==========

Appearance :
MR TANVISH U BHATT for Petitioner(s) : 1,
MR SIRAJ GORI, AGP for Respondent(s) : 1,
RULE SERVED for Respondent(s) : 2.

==========

CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 17/06/2006

ORAL JUDGMENT

1. In the present petition, the petitioner challenges the Government action of transferring six seats for S.T. Candidates for open category

students. The issue pertains to filling up the vacancies in medicine in Surat Municipal Hospital. It is not in dispute that 85% of the vacancies are to be filled from local students and 15% of the vacancies are to be filled from students outside from Surat. Reservation is provided under rules for various communities such as Schedule Caste, Schedule Tribe etc. There were 14 vacancies reserved for Schedule Tribe for local candidates. Only six such candidates were available and therefore, six seats remained unfilled. These seats were filled by open category candidates from Surat. The case of the petitioner is that seats should have been offered to outsider candidates belonging to Schedule Tribe community.

2. The State Government has opposed the petition and contended that rule 2.5 of the admission rules permits such shifting of seats when reserved category candidates are not readily available from a particular source.

3. Though the petitioner has claimed admission

against vacancies, such admission process was completed nearly a year back. Six students who were given admission from general category are pursuing their studies from last one year. None of these persons have been joined as party-respondents in this petition. Any decision that this Court may take in favour of the petitioner would directly affect these candidates. In their absence therefore, no such order can be granted. At this short ground alone, the petition is rejected. Rule is discharged with no order as to costs.

(Akil Kureshi,J.)

(raghu)